

Honorable Judge Theresa L Fricke

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MOUNTAINEERS FOUNDATION, a
Washington public benefit corporation,

Plaintiff,

v.

THE MOUNTAINEERS, a Washington
non-profit corporation,

Defendant.

No.: 2:19-cv-01819-RSL-TLF

STIPULATED MOTION TO
MODIFY SCHEDULING ORDER

NOTE ON MOTION CALENDAR:
AUGUST 14, 2020

I. INTRODUCTION

Pursuant to Fed. R. Civ. P. 16(b)(4), Plaintiff Mountaineers Foundation ("Plaintiff" or "The Foundation") and Defendant The Mountaineers ("Defendant" or "The Mountaineers") respectfully request that this Court extend each of the outstanding deadlines included in the Court's Scheduling Order (ECF No. 21) for a period of six (6) months in order to accommodate a number of unexpected and unforeseen delays introduced into this matter due the spread of the novel coronavirus and disputes between the Parties regarding the appropriate manner in which to exchange confidential and electronically-stored information.

II. BACKGROUND AND GROUNDS FOR RELIEF

In February of 2020—before the true extent of the COVID-19 pandemic was known—the Parties worked diligently to assist the Court to develop what they believed to be a workable

1 scheduling order. However, at that time, the Parties could not have anticipated the course that
2 discovery would take in this matter. As the Court is aware, the Parties had a number of
3 disagreements regarding the manner in which electronically-stored information should be
4 exchanged, and the appropriate level of confidentiality that should be afforded to certain donor-
5 related information. Ultimately, these disputes could not be resolved without the assistance of this
6 Court and multiple hearings on each subject, starting in February and concluding upon the entry
7 of this Court's ESI and Protective Orders on May 5, 2020. This four-month delay in discovery,
8 undermined a number of the assumptions upon which the initial Scheduling Order relied, including
9 the ability to begin the discovery process in February, 2020. Those assumptions were undermined
10 even further when the Parties began to negotiate the terms of those Orders, including the
11 appropriate search terms to use in connection with the search for, collection of, and disclosure of
12 electronically-stored information. Agreement upon search terms was not reached until August 4,
13 2020. As a result, no discovery has been exchanged between the Parties and no exchange is
14 anticipated until at least August 21, 2020.

15 This case was also uniquely affected by the COVID-19 outbreak. Much of this case may
16 be decided upon the testimony of individuals who were present on the date of the formation of the
17 Mountaineers Foundation in 1968. These individuals, due to their age, have been rendered
18 especially vulnerable to the virus. Although the Parties have been working diligently to negotiate
19 protocols that will allow for the deposition of these individuals to take place safely, an appropriate
20 method has not yet be agreed to. That delay has only be compounded by the fact that some relevant
21 witnesses have disabilities, such as blindness, that render traditional practices associated with
22 depositions, such as the review and authentication of documents without third-party facilitators
23 that might place them at risk for exposure to COVID-19, difficult. As a result, only one individual
24 has been deposed.

25 These unprecedented circumstances also have important implications for the Parties'
26 upcoming deadlines to submit their expert reports, the first of which falls on August 21, 2020: the

date the Parties expect to be able to make their first exchange of discovery documents. As such, the Parties' experts will simply have no meaningful opportunity to review the relevant documents exchanged by the Parties that will form the basis of any opinion that they could provide in this matter before they are required to prepare and exchange their reports.

As such, and in light of the above-noted August 21, 2020 deadline, the Parties have met and conferred about this issue and agreed that good cause exists to extend each of the outstanding deadlines included in the Court's Scheduling Order (ECF No. 21) for a period of six (6) months.

III. RELIEF REQUESTED

The Parties respectfully request that each of the below deadlines included in the Court's Scheduling Order (ECF No. 21) be modified as follows:

Event	Former Deadline	Revised Deadline
Disclosure of plaintiff's expert witnesses	August 21, 2020	February 19, 2021
Disclosure of defendant's expert witnesses	September 18, 2020	March 19, 2021
Disclosure of rebuttal witnesses	October 16, 2020	April 16, 2021
Early Motion for Summary Judgment Deadline	October 30, 2020	April 30, 2021
All motions related to discovery must be noted on the motion calendar no later than the Friday before discovery closes pursuant to LCR 7(d) and LCR 37(a)(2)	January 22, 2021	July 23, 2021
Discovery (including meet-and-confer meetings) completed by	January 29, 2021	July 30, 2021
Last date to serve responses to interrogatories and responses to requests for production, and to take depositions; target date for scheduling settlement conference of attorneys	January 29, 2021	July 30, 2021
Dispositive Motion Deadline	February 26, 2021	August 27, 2021

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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3 DATED this 14th day of August, 2020.

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6 By /s/ Ryan W. Edmondson

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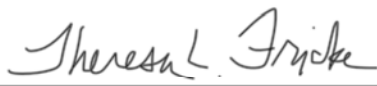
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18 PURSUANT TO STIPULATION, IT IS SO ORDERED

19
20 DATED: 8-14-2020

21 
22 _____
23 Honorable Judge Theresa L Fricke
24 United States Magistrate Judge
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